

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3697 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

G S R T C

Versus

PURSOTTAM SUNDERI GALOTIA

Appearance:

MR HARDIK C RAWAL for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/07/2000

ORAL JUDGEMENT

#. Under the award of the Labour Court, Rajkot, in Reference (LCR) No.527 of 1986 decided on 26th May, 1987, the petitioner was directed to reinstate the workman-respondent to his original post with continuity of service without backwages within one month from the

date of publication of award. It is further ordered that in case of default, the workman will be entitled to full backwages from the date of default till reinstatement.

#. In this special civil application, interim relief has not been granted though it was admitted on 19.1.91.

#. Mr.Hardik Rawal, learned counsel for the petitioner contended that the award is wholly perverse. The Labour Court has accepted as a fact that the inquiry conducted by the petitioner-Corporation was fair and reasonable. It is also noticed that the respondent-workman was carrying two passengers in bus without issuing tickets. It has further been accepted by the Labour Court that the default chart shows 29 misconducts against the respondent-workman. The learned counsel for the petitioner submits that the Labour Court has not given any penalty to the respondent-workman. It only ordered for withholding of full backwages for a period of about two years and it was taken to be appropriate punishment. In his submission, withholding of wages for two years is not punishment at all.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the petitioner.

#. The Labour Court has held that the misconduct alleged against the respondent-workman is proved. It has further been held by the Labour Court that the workman intentionally allowed his relatives to travel without tickets which resulted in loss of revenue to the Corporation. The Labour Court has taken it to be a case of negligence only and further held that it does not amount to misappropriation or dishonesty. In these facts, it felt that the highest punishment of dismissal is quite disproportionate and it deserves to be reduced.

#. I find sufficient merits in the contention of the learned counsel for the petitioner that withholding of backwages is not penalty. The learned Labour Court has failed to point out that it is the penalty provided under the Standing Orders or Regulations framed by the Corporation. In the case where misconduct has been committed by the employee of the Corporation and on proof of it, certainly, the workman may not be entitled for any pie towards backwages. So this approach of the Labour Court is wholly perverse.

#. In the result, this special civil application succeeds in part and the award of the Labour Court is modified in the terms that the penalty of dismissal of respondent-workman from services is substituted by

penalty of withholding of his three grade increments with future effect. The respondent-workman shall not be entitled for any pie towards backwages from the date of dismissal till the date of award. Rule is made absolute accordingly. As none present for respondent, no order as to costs.

.....

(sunil)